

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

PERSONNEL BOARD MINTUES OF THE MEETING OF SEPTEMBER 16, 2011

Attending:

David Alschuler

Chairperson

Moj Khaghan Danial

Associate Member

Gabriel Paez Rosalie Pincus George Castell Associate Member Associate Member Employee Member

Christopher Diaz

Employee Member

Ramiro J. Inguanzo

Secretary

Absent:

Michael Perlmutter

Evette Phillips

Vice Chairperson Employee Member

David Alschuler, Chairperson, convened the Personnel Board meeting at 9:03 a.m.

ITEM 1- Introduction of new employee member, Christopher Diaz

David Alschuler, Chairperson, briefly introduced Christopher Diaz, a new Employee Member, to the Board. Current Board members where asked to introduce themselves as well.

ITEM 2 - Approval of Minutes

Upon motion by Rosalie Pincus, Associate Member, and seconded by Moj Khaghan Danial, Associate Member, the minutes of the May 20, 2011 Personnel Board meeting were approved.

ITEM 3 - Update on the Budget Advisory Committee (BAC) Pension Discussions

Ramiro Inguanzo, Secretary, advised the Board that the next BAC meeting related to pension discussions would be on Tuesday, September 20, 2011 at 4:00 p.m. Gabriel Paez, Associate Member, confirmed that he would be in attendance at the next BAC meeting and would report back to the Personnel Board.

ITEM 4 - Update on 2011 - 2012 Fiscal Year Budget

Item not discussed.

ITEM 5 – Discussion/Clarification regarding Personnel Rule VII, Methods of Filling Vacancies, Section 9: Appointment to Unclassified Service

This matter was heard by the Personnel Board pursuant to the Arbitrator's referral in the matter of CWA Local 3178 and City of Miami Beach, FMCS Case No. 10-56578-3 (Candida Hernandez). Present on behalf of the City was Ms. Susan Potter Norton, of Allen, Norton & Blue, City's Outside Counsel. Present on behalf of the Communications Workers of America, Local 3178 (CWA) was Ms. Pamela S. Terraova, Counsel for CWA; Mr. Richard McKinnon, CWA President; Mr. Joseph Fisher, CWA Vice President and Ms. Candida Hernandez, Grievant. Pursuant to the referral issued by Arbitrator Richard John Miller on March 11, 2011, who held in abeyance his ruling "until the Personnel Board

determines the meaning or application of the terms 'separated", "position", and "classification" as used in Personnel Rule VII, Section 9.3(b)." Both parties were afforded an opportunity to offer evidence and provide arguments in support to their positions. The City's position was that the term "separated" applies to both "voluntary and involuntary employment actions," and that the terms "position" and "classification" are not synonymous, however, often used interchangeably. The CWA's position was that the term "separated" applies to "involuntary employment actions," and that the terms "position" and "classification" are not synonymous.

Upon motion by Moj Khaghan Danial, Associate Member, and seconded by Gabriel Paez, Associate Member, the members present voted on the meaning of the term "separated" as follows:

- <u>Voluntary employment actions</u> 0 votes
- <u>Involuntary employment actions</u> 3 votes [Gabriel Paez, Rosalie Pincus, George Castell and Christopher Diaz (votes by employee members only constitute one vote).]
- Both Voluntary and Involuntary employment actions 1 vote (Moj Khaghan Danial)

The members present voted on whether or not the terms "position" and "classification" were one and the same, the vote was as follows:

- Synonymous 0 votes
- Not Synonymous 4 votes [Moj Kaghan Danial, Gabriel Paez, Rosalie Pincus; George Castell and Christopher Diaz (votes by employee members only constitute one vote).]

Thereafter, the Personnel Board instructed that the Arbitrator be notified of its decision that the meaning of the term "separated" refers to involuntary employment actions, and that the terms "position" and "classification" are not synonymous.

ITEM 6 - Classified Performance Evaluations - the request from Personnel Board Members for Department Directors with more than 10% or with 10 or more past due performance evaluations to appear before the Board

Ramiro Inguanzo, Secretary, informed the Board that we continue to work on these numbers with the Departments. Mr. Inguanzo explained the challenges faced by the Fire Department in submitting their evaluations timely stems from the twenty-four shift schedules and rotation of supervisors. Mr. Inguanzo added that the Parks and Recreation Department also face unique challenges in submitting their evaluations timely due to the fact that their department is staffed seven days a week around the clock.

ITEM 7 - Open Forum Discussion

Moj Khaghan Danial, Associate Member, wanted to discuss the fact that the vote that took place on the terms could possibly have long-term effects and was conflicting with the Personnel Rules. Ramiro Inguanzo, Secretary, stated that he would schedule a discussion at a future meeting regarding any impacts.

With all in favor, the meeting was adjourned at 10:40 a.m.

Ramiro Inguanzo, Secretary